

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JAMES GRAHAM,**

*Plaintiff,*

**v.**

**LINDE LLC,**

*Defendant.*

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**CASE NO. 3:15-cv-03522**

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332 and 1441, Defendant, Linde LLC (incorrectly identified as “Linde North America, Inc.”) (“Linde”), hereby gives notice of the removal of this civil action from the County Court at Law No. 1 for Dallas County, Texas, Cause No. CC-15-04854-A, to the United States District Court for the Northern District of Texas. As grounds for this removal, Linde states as follows:

1.

This civil action was commenced on or about September 24, 2015, by the filing of an Original Petition in the County Court at Law No. 1 for Dallas County, Texas, Cause No. CC-15-04854-A (the “Petition”), by plaintiff, James Graham (“Plaintiff”) against Linde. Linde was served with the Petition through Corporation Service Company, its Texas registered agent for service of process, on September 30, 2015. A copy of the complete state court record is attached as Composite Exhibit “A”. This Notice of Removal, therefore, has been filed within thirty (30) days after the first receipt, by service or otherwise, of the initial pleading in Cause No. CC-15-04854-A.

2.

According to the Petition, this case arises from a December 28, 2013, motor vehicle accident. (Petition, VI).

3.

The Petition further asserts that, Plaintiff, James Graham, is a “resident of Dallas County, Texas.” (Petition, III). It is, therefore, alleged here that Plaintiff is a citizen of the State of Texas.

4.

For purposes of diversity jurisdiction, “the citizenship of a LLC is determined by the citizenship of all of its members.” *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). The citizenship of all limited liability company members must be traced up the various organizational levels until reaching a natural person or corporation, which have individual citizenships for the jurisdictional analysis. *See, e.g., Mullins v. TestAmerica, Inc.*, 564 F.3d 386, 397–98 (5th Cir. 2009); *Hicklin Eng’g, L.C. v. Bartell*, 439 F.3d 346, 347–48 (7th Cir. 2006).

5.

The citizenship of Linde, itself a Delaware limited liability company, is determined by the citizenship of each of its members. The sole member of Linde is Linde North America, Inc., a corporation organized in the State of Delaware with its principal place of business in New Jersey. Therefore, neither Linde nor its sole member are a citizen of Texas.

6.

Accordingly, this matter involves complete diversity of citizenship as between Plaintiff and Linde. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, based upon such diversity of citizenship. Removal is, therefore, proper under 28 U.S.C. § 1441.

7.

For purposes of 28 U.S.C. §1332(a), the alleged amount in controversy exceeds \$75,000. Plaintiff affirmatively asserts that “the monetary relief sought is more than \$200,000.” (Petition, I, IV) It is, therefore, facially apparent that the amount of damages sought is more than sufficient to establish an amount in controversy in excess of \$75,000 as required for §1332(a) jurisdiction.

8.

Because this case involves complete diversity of citizenship between Plaintiff and Linde, and because the requisite amount in controversy is present, this civil action may be removed to this Court pursuant to 28 U.S.C. §1441, as amended.

9.

Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal is properly being filed with the County Court at Law No. 1 for Dallas County, Texas, Cause No. CC-15-04854-A, and served on counsel for Plaintiff.

10.

By filing this Notice of Removal, Linde does not waive its rights to object to service of process, sufficiency of process, jurisdiction over the person, venue, or to assert any other applicable defenses.

**WHEREFORE**, Defendant, Linde LLC, provides notice that the above-captioned action pending against it in the County Court at Law No. 1 for Dallas County, Texas, Cause No. CC-15-04854-A, has been removed to this Court for further proceedings.

Respectfully submitted,

**McGLINCHEY STAFFORD, PLLC**

By: /s/ Nathan T. Anderson

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**ATTORNEYS FOR DEFENDANT LINDE LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2015, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice and copy of this filing has been forwarded to all parties, by and through their attorneys of record by operation of the Court's electronic filing system and, additionally by first-class mail and eFile.TXCourts.Gov.

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*Attorney for Plaintiff*

s/ Nathan T. Anderson